

U.S. Patent Application Serial No. 09/785,512  
Reply to Office Action dated June 29, 2004

**Remarks:**

Applicant has read and considered the Office Action dated June 29, 2004 and the references cited therein. Claims 1-72 remain pending.

In the Action, claims 1-19, 22-25 and 71-72 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Okada et al. in view of Iddan et al. The Action states that Okada discloses a system for producing a stereoscopic image but does not particularly disclose a swallowable capsule. The Examiner asserts that a swallowable capsule is well known and that Iddan teaches an endoscope comprising a swallowable capsule. The Action states that it would have been obvious to a person of ordinary skill in the art to employ a stereoscopic device taught by Okada to incorporate a swallowable capsule for portability and easily accessing an area of interest for stereoscopic imaging.

Applicant has carefully reviewed the prior art in light of the Examiner's characterization of the references. Applicant asserts that it is not obvious to combine the references and that Okada actually teaches away from any sort of combination with Iddan or other capsules. Applicant asserts that Okada has not been properly characterized in the Action. The fact that Okada includes a capsule device 12 (see column 4, lines 27-30) appears to have been ignored. While Applicant concedes that Okada shows a stereoscopic device in Figure 9, a stereoscopic device is not in the capsule and Okada does not teach or suggest a stereoscopic capsule device. In fact, the Okada device teaches a stereoscopic device and teaches a capsule, but teaches away from a stereoscopic capsule device as it was not achievable and required structure (147, 148, 149 in Figure 9) for the stereoscopic device that is not in the capsule (12). Had it been obvious to combine a capsule and a stereoscopic device to achieve a stereoscopic capsule device, Okada would have made that combination. However, achieving a stereoscopic capsule presents challenges to housing all the necessary stereoscopic components so as to function properly and reliably. Applicant asserts that the characterization that it would be obvious to employ the stereoscopic device of Okada to incorporate a swallowable capsule is incorrect.

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As Okada already teaches a stereoscopic device and teaches a capsule device, its combination with Iddan would teach nothing further to one of ordinary skill in the art. Iddan merely teaches another capsule without stereoscopic capabilities and the reference is cumulative with regard to a capsule. The combination with Okada would not achieve a further improved device. Rather, the combination achieves the same structure that Okada already has, a capsule device without stereoscopic capabilities and a further separate structure that is not in the form of a swallowable capsule to achieve a stereoscopic image. As Okada actually teaches away from a stereoscopic capsule device, one of ordinary skill in the art would not think to further combine with Iddan. Moreover, as the combination with cumulative prior art such as Iddan does not improve the Okada device, the present invention is not taught or suggested to one of ordinary skill in the art. Applicant asserts that even in hindsight, one of ordinary skill in the art does not arrive at a stereoscopic capsule device when viewing the prior art in view of Okada teaching away from a combination with another similar capsule. Applicant asserts that claims 1-19, 22-25 and 71-72 patentably distinguish over the combination of Okada and Iddan.

Claim 26 was rejected as being unpatentable over Okada et al. and Iddan et al. in view of Adelson. The Action states that Okada fails to disclose a lenticular lens array and a light sensor array, but that Adelson teaches such a sensor assembly. The Action states that it would have been obvious to one of ordinary skill in the art to use the stereoscopic system of Okada and to use the lens array and light sensor array of Adelson. Applicant asserts that Adelson neither teaches nor suggests a stereoscopic capsule device. Moreover, as stated above, the combination of Okada and Iddan does not teach or suggest such a stereoscopic capsule device. Therefore, Applicant asserts that the combination of Okada, Iddan and Adelson would not arrive at the invention recited in claim 1 or the invention recited in claim 26. Applicant asserts that the claims patentably distinguish over the combination of Okada, Iddan and Adelson.

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Claims 27-39 were rejected as being unpatentable over Okada et al. and Iddan et al., and further in view of Wattanabe. The Action states that Okada and Adelson do not disclose a light source producing at least two alternating beams of light in a different range of wavelengths, but that Wattanabe teaches an endoscope including a conventional light source unit producing at least two alternating beams of light in a different range of wavelengths. As stated above, Okada, Iddan and/or Adelson do not teach or suggest a stereoscopic capsule device. Moreover, a stereoscopic endoscope is already known from Okada and combination with Wattanabe would not arrive at the stereoscopic capsule. Applicant asserts that the claims patentably distinguish over the reference as Okada teaches away from such a combination arriving at the recited invention.

Claims 40-50 and 52 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Okada et al., Iddan et al. and further in view of Street. The Action states that Street discloses two apertures including a light valve, a sensor array and an illuminating unit with the light sensor array detecting a plurality of images corresponding to an open state of a selected one of the light valves and that it would have been obvious to combine the references to arrive at the recited invention. As stated above, Applicant asserts that the combination of Okada and Iddan does not teach or suggest a stereoscopic capsule device. Moreover, Street neither teaches nor suggests a stereoscopic capsule device. As Okada already teaches a stereoscopic device and teaches a capsule, but teaches away from combining the stereoscopic device with a capsule, one of ordinary skill in the art would not arrive at the present invention by combining the references. Applicant asserts that claims 40-50 and 52 patentably distinguish over the combination.

Claims 20-21, 51 and 53-70 were allowed. Applicant thanks the Examiner for the indication of allowable subject matter.

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A speedy and favorable action on the merits is hereby solicited. If the Examiner feels that a telephone interview may be helpful in this matter, please contact Applicant's representative at (612) 336-4728.

Respectfully submitted,

MERCHANT & GOULD P.C.

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